

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

BABY DOE *et al.*,

Plaintiffs,

v.

MAST *et al.*,

Defendants.

Civil Action No. 3:22-cv-49

Declaration of Frank M. Branch

Pursuant to 28 U.S.C. § 1746, I, Frank M. Branch, hereby state and declare as follows:

1. I am the Special Security Officer (SSO) for United States Central Command (USCENTCOM), U.S. Department of Defense (DoD). USCENTCOM is one of 11 combatant commands of the United States armed forces; it directs and enables military operations and activities with allies and partners to increase regional security and stability in support of enduring United States interests within its Area of Responsibility (AOR). At present, USCENTCOM's AOR includes 20 nations in the Middle East, Central and South Asia, including Afghanistan, and the strategic waterways that surround them. Prior to 2008, USCENTCOM's AOR also included seven African nations. Like all combatant commands, USCENTCOM constitutes a headquarters element without any military units permanently assigned to it; USCENTCOM operates with component commands within its AOR—one for each of the U.S. armed services, along with a joint special operations component and a number of subordinate joint task forces.

2. As the SSO, I am responsible to the Commander, USCENTCOM for classification management of national security information. In this capacity I manage a staff of dedicated security

professionals whose primary function is to oversee the processes for classifying, safeguarding and declassifying of national security information pursuant to Executive Order (E.O.) 13526, “Classified National Security Information.” Document review is an essential part of classification management. The review process ensures an accurate and accountable application of classification standards. We work directly with subject matter experts and various staff sections to provide a well-reasoned classification determination to the command’s OCAs, pursuant to E.O. 13526. Pursuant to DoD Instruction (DoDi) 5200.48, we also review documents that are not classified but may contain information that warrants protection from public dissemination.

3. I make the following declaration in support of nominal defendant the Department of Defense’s motion to seal pages within Exhibit 6 to defendant Richard Mast’s Memorandum in Opposition to Plaintiff’s Motion for Protective Order in the above-named litigation. Through my role as SSO, I am aware that DoD Office of General Counsel asked USCENTCOM to review the document contained in these pages to assess whether the information it contained could be made public consistent with DoD equities, including its obligation to protect certain information implicating national security. All pages of the document are marked “FOUO” (For Official Use Only), which is a designation used by DoD to identify information or material which, although unclassified, may not be appropriate for public release. I provide the following description of the document at issue and USCENTCOM’s review of this document based on my personal knowledge and information obtained in the course of my official duties as SSO.

4. The document that USCENTCOM was asked to review consists of a 2-page narrative on purported “Headquarters Resolute Support” letterhead, followed by 2 pages of photographs and 2 pages of diagrams. I understand that DoD has not recognized or endorsed this document as an official DoD memorandum. However, DoD has determined the document contains United States

Government information that defendant Joshua Mast obtained through his DoD employment, relating to a September 2019 combat operation in Afghanistan. Because the purpose of USCENTCOM's review was limited to assessing what information in the document could be made public, this review did not assess the accuracy of any assertions in the document or whether the facts were complete or supported those assertions.

5. The Chief of Staff for USCENTCOM, Major General David Doyle, conducted the review. Major General Doyle has been designated as a TOP SECRET Original Classification Authority (OCA) by the Secretary of Defense, with authorization to classify and declassify national security information. He serves as both the OCA and the Initial Denial Authority (IDA) under the FOIA and the Mandatory Declassification Review (MDR) process pursuant to Executive Order 13526. He also conducts decontrolling reviews pursuant to DoDi 5200.48. The SSO is the principal staff section that advises and assists Major General Doyle in his duties as both an OCA and a decontrolling official.

6. Following Major General Doyle's review, USCENTCOM, through the Chief of Staff, approved a partial public release of information in the document on March 6, 2023, but identified parts of the 2-page narrative, as well as the photographs and diagrams in their entirety, as requiring redaction from any publicly released version. Major General Doyle then conducted a further review upon learning that certain information previously identified for redaction had separately been approved for public release. USCENTCOM, through the Chief of Staff, approved a revised partial public release of information on May 3, 2023. *See* Ex. A (attached hereto).

7. The information in the 2-page narrative that USCENTCOM identified as warranting protection reveals specific details of a military operation conducted by joint U.S. forces in September 2019 (page 1), including U.S. forces' objective (page 1); tactics, techniques, and

procedures used by U.S. forces during the mission (page 1); and assessment of enemy fighting techniques (pages 1-2). This redacted information reveals military tactics, techniques, and procedures which still may be in use by the U.S. military. The redacted information could also be used by others to change their fighting techniques or otherwise try to improve their effectiveness in combating U.S. forces. USCENTCOM therefore determined that the information should not be publicly released in order to safeguard DoD military operations.

8. Furthermore, USCENTCOM concluded that the photographs included at pages 3-4 should be redacted as they implicate third-party privacy interests. The photographs are described as having been found at the scene of the operation and depicting individuals who resided in the targeted compound. Consistent with international norms, DoD does not generally publish photographs of individuals who may have been killed, or captured, in military operations due to the privacy interests of those individuals and any surviving family members.

9. The images on pages 5-6 contain diagrams owned by agencies external to the DoD, which have not authorized its public release. In addition, the information in these diagrams reveal details of the operation and sequence of events executed by U.S. forces. When combined with the information identified in the 2-page narrative, these diagrams reveal military tactics, techniques, and procedures that should remain protected to avoid revealing such details to future enemy forces.

10. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on May 9, 2023

BRANCH.FRANK
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Frank M. Branch
Chief, USCENTCOM SSO